

**IN THE UNITED STATES BANKRUPTCY COURT FOR  
THE EASTERN DISTRICT OF TENNESSEE**

IN RE

AMENDMENTS TO  
LOCAL RULES OF THE  
BANKRUPTCY COURT FOR  
THE EASTERN DISTRICT OF  
TENNESSEE

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No. 05-06

**GENERAL ORDER**

It is hereby ORDERED that the Local Rules of the United States Bankruptcy Court for the Eastern District of Tennessee (the "Local Rules") are amended to read as set forth on the attachment hereto [the amended portions are shown in red and the deleted portions are shown in ~~strikeout~~]. It is further ORDERED that these amendments shall become effective October 17, 2005, and that the clerk shall publish the Local Rules, as amended, on the court's website.

/s/ John C. Cook  
JOHN C. COOK  
Chief United States Bankruptcy Judge

/s/ Richard Stair, Jr.  
RICHARD STAIR JR.  
United States Bankruptcy Judge

/s/ Marcia Phillips Parsons  
MARCIA PHILLIPS PARSONS  
United States Bankruptcy Judge

/s/ R. Thomas Stinnett  
R. THOMAS STINNETT  
United States Bankruptcy Judge



**AMENDMENTS TO  
LOCAL BANKRUPTCY RULES OF THE  
UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
effective October 17, 2005**

**RULE 1007-1. LISTS, SCHEDULES & STATEMENTS**

The debtor must comply with 11 U.S.C. § 521(a)(1)(B)(iv) and Interim Bankruptcy Rule 1007(b)(1)(E) [requiring the filing of copies of all payment advices or other evidence of payment, if any, received by the debtor from an employer within 60 days before the filing of the petition] by filing a statement substantially conforming to Local Form 1007.1. For purposes of complying with Interim Bankruptcy Rule 1007(b)(1)(E), and 11 U.S.C. § 521(a)(1)(B)(iv), the debtor may simply attach to Local Form 1007.1 the debtor's most recent paycheck stub showing year-to-date earnings if the debtor has worked the same job for the last 60 days before the date of the filing of the petition.

**RULE 1009-1. AMENDMENTS TO PETITIONS, LISTS,  
SCHEDULES & STATEMENTS**

**(a) Form.** Any amendment to a petition, list, schedule or statement must be made utilizing the Official Forms to the extent possible, must contain a caption, including the debtor's name and case number, and must set forth a title for the document, including the word "Amended." Unless the sole purpose of the amendment is to correct an existing creditor's address, the ~~The~~ amendment must be verified by the debtor in the same manner that the item being amended was originally executed and verified.

\* \* \* \* \*

**(c) Added Creditors.** Amendments to schedules adding additional creditors or changing the address of a creditor must contain only the additional or corrected information. The amended schedule shall be accompanied by—

- (1) the required amendment fee if adding a creditor (no fee required if merely changing an address); and
- (2) ~~a supplemental master address list as prescribed by Local Rule 1007-2(b) setting forth only the added creditor and its address or the corrected address of the creditor; and~~

~~(3)~~ a certificate evidencing service on the trustee and the affected creditor of a copy of—

- (i) the amended schedule; and
- (ii) notice of the Bankruptcy Case issued by the clerk of the court and containing the debtor's full social security number.

\* \* \* \* \*

## **RULE 1019-1. CONVERSION — PROCEDURE FOLLOWING**

Within 30 days following the conversion of a chapter 13 case to chapter 7, the chapter 13 trustee must—

- (1) disburse to the clerk of the court any unpaid filing fee to the extent the trustee has funds on hand;
- (2) distribute all plan payments in accordance with the plan unless the plan was not confirmed prior to conversion in which event the trustee must return all plan payments to the debtor after deducting any unpaid claim allowed under 11 U.S.C. § 503(b);
- (3) turn over to the chapter 7 trustee all records and property of the estate in the chapter 13 trustee's possession or control except plan payments; and
- (4) file a final report and account.

~~(b) Duties of Debtor. Within 15 days following the conversion of a chapter 13 case to chapter 7, the debtor must file—~~

- ~~(1) a schedule of unpaid debts incurred after the filing of the petition, including the name and address of each claim holder;~~
- ~~(2) a schedule of executory contracts and unexpired leases entered into or assumed after the filing of the petition;~~
- ~~(3) if unpaid debts were incurred or executory contracts or unexpired leases entered into postpetition, a supplemental master address list of creditors in the form required by Local Rule 1009-1;~~
- ~~(4) such other amendments to the schedules, statements, and lists as are necessary to reflect any material additions, deletions, or other changes in the debtor's assets or liabilities that have occurred since the filing of the petition; and~~
- ~~(5) a statement of intention if required by 11 U.S.C. § 521(2)(A).~~

## **RULE 2002-1. NOTICE TO CREDITORS & OTHER INTERESTED PARTIES**

**(a) Returned Notices.** Notices of the 11 U.S.C. § 341 meeting of creditors, orders dismissing the case, and discharge orders will have a return address of the debtor's counsel or the debtor if *pro se*. If a notice or order is returned as undeliverable, the debtor must determine the correct address, re-serve the notice or order, **and** file a certificate of service with the clerk, **and amend the appropriate schedule to reflect the correct address for the creditor.** If corrected addresses are unavailable, debtor or counsel should file a notice with the clerk, who is then authorized to remove from the mailing list the undeliverable address. If any other notice, motion, or order is returned to the clerk as undeliverable, the clerk may forward the undelivered notice, motion, or order to the debtor's counsel or to the debtor if *pro se* for re-service in accordance with this rule.

\* \* \* \* \*

## **RULE 2015-2. DEBTOR IN POSSESSION DUTIES**

**(a) Content of Chapter 11 Operating Reports.** Unless the court orders otherwise, the debtor in possession or trustee, if one has been appointed, in a chapter 11 business case must file no later than the 15th day of each month verified monthly reports setting forth ~~a summary of the past month's business operations~~ the information required by 11 U.S.C. § 308 in the format required by the United States trustee.

\* \* \* \* \*

## **RULE 2016-1. COMPENSATION OF DEBTOR'S ATTORNEY IN CHAPTER 13 CASES**

### **(a) Presumptive Fee.**

(1) *Base Fee for Preconfirmation and Routine Services.* In a chapter 13 case, a debtor's attorney may, without filing an itemized statement, request a Base Fee in an amount not to exceed ~~\$1,600~~ \$2,000 for all services rendered and expenses incurred prior to confirmation of the plan and all routine services and expenses anticipated to be rendered or incurred after confirmation. The amount of the Base Fee must be stated in the chapter 13 plan, ~~Local Form 3015.1,~~ and on a Disclosure of Compensation of Attorney for Debtor form substantially conforming to Local Form 2016.1, which must be filed in accordance with Fed. R. Bankr. P. 2016(b). Absent an objection to the Base Fee provision of the plan filed in accordance with Local Rule 3015-3(b), the court will generally approve the Base Fee upon plan confirmation without further notice or a hearing. However, the court *sua sponte* may require a hearing on any Base Fee.

\* \* \* \* \*

**(b) Lodestar Fee.** In any case in which the attorney seeks initial compensation in excess of ~~\$1,600~~ \$2,000 or in any case in which the attorney chooses to seek compensation other than as prescribed in subdivision (a) of this rule, the attorney must file a fee application including an itemized statement conforming to Fed. R. Bankr. P. 2016(a). In filing the application, the attorney must follow the motion procedure set forth in Local Rule 9013-1, which requires, *inter alia*, that the application be accompanied by a proposed order and be set for hearing or contain the passive notice language. In addition to the requirements of Fed. R. Bankr. P. 2016(a), the application must set forth the effect of the fee on the dividend to be paid unsecured creditors under the debtor's plan. The applicant must serve the application or a summary thereof, along with the proposed order, on the debtor, the trustee, and all creditors and parties in interest and certify service as required by Local Rule 9013-3. In addition, the attorney must timely file the compensation disclosure statement required by Fed. R. Bankr. P. 2016(b).

**RULE 3015-1. CHAPTER 13 — PLAN**

(a) ~~Form of Plan.~~ A chapter 13 plan must substantially conform to Local Form 3015.1. **Disclosure of Attorney Fees.** A chapter 13 plan must set forth the amount of fees to be awarded to the debtor's attorney and any payments previously paid by the debtor on the fees.

\* \* \* \* \*

(b) **Pre-Confirmation Amendments.** Where the debtor desires to amend a plan before confirmation and the amendment will materially adversely affect creditors, the amendment must be made by filing a new plan conforming to Local Form 3015.1 and identified as an amended plan. The amended plan must be accompanied by—

- (1) a Notice conforming to Local Form 3015.4; and
- (2) a certificate evidencing service of the amended plan and the Notice on the chapter 13 trustee and all affected creditors and parties in interest.

Thereafter, the confirmation process will be governed by Local Rule 3015-3.

**RULE 3015-2. CHAPTER 13 — AMENDMENTS TO PLANS**

(a) **Modification of Confirmed Plans.**

- (1) *Motion to Modify.* A debtor seeking to modify a confirmed chapter 13 plan must file—
  - (i) a motion to modify the plan;
  - (ii) the proposed modified plan;
  - (iii) a Notice conforming to Local Form 3015.2; and
  - (iv) if the motion seeks to reduce plan payments, amended Schedules I and J.

The motion to modify must include a summary of the changes set forth in the proposed modified plan and the reason for the modification. ~~The proposed modified plan must substantially conform to Local Form 3015.1.~~ The date specified in the Notice for the meeting with the chapter 13 trustee must be designated by the debtor on a day prearranged by the trustee and must be at least 20 days after service of the motion, plan, and notice.

\* \* \* \* \*

**RULE 3015-3. CHAPTER 13 — CONFIRMATION**

\* \* \* \* \*

(b) **Court Consideration of Plan.** If no objection to the plan is filed, the court may confirm the plan without a hearing. If a party in interest objects to plan confirmation, the court will conduct a hearing. The court has determined that it would be in the best interests of creditors and the estate to hold confirmation hearings at a date earlier than 20 days after the date of the meeting of creditors under 11 U.S.C. § 341(a) if there is no objection to such earlier date. Accordingly, the confirmation

hearing will (absent a contrary agreement of the objecting parties and the debtor) ~~will~~ be the first scheduled time for confirmation hearings that is at least seven days after the completion of the meeting of creditors. unless a written objection to such time is filed or lodged in the same manner and by the same deadlines as an objection to confirmation, as provided in subdivision (a) of this rule If such written objection to the scheduled time of the confirmation hearing is timely filed or lodged, the confirmation hearing will (absent a contrary agreement of the objecting parties and the debtor) be the first scheduled time for confirmation hearings that is at least 20 days after the completion of the meeting of creditors.

## **RULE 4001-1. AUTOMATIC STAY — RELIEF FROM**

### **(a) Chapter 7 Cases.**

(1) *Contents of Motion.* A motion for relief from the automatic stay filed by a secured creditor in a chapter 7 case must include—

- (i) a statement of the unpaid balance of the creditor’s claim as of the date of filing of the debtor’s petition;
- (ii) a description of the collateral in which the creditor asserts a security interest; and
- (iii) a statement of the creditor’s good faith estimate of the value of the collateral ~~along with the results of any appraisal or other evidence supporting that valuation~~ and a statement of the basis of such estimate (such as appraisal, tax valuation, NADA value, sales of comparable property, purchase price and age, etc.).

\* \* \* \* \*

~~(6) *Waiver.* If the movant utilizes the passive notice procedure of Local Rule 9013-1(h) or schedules a hearing on a motion for relief from the automatic stay for a date that is more than 30 days after the date the motion was filed, the movant is deemed to have waived the automatic termination provisions of 11 U.S.C. § 362(e).~~

\* \* \* \* \*

(c) **Waiver of Automatic Termination Provisions.** If the movant utilizes the passive notice procedure of Local Rule 9013-1(h) in a case under chapter 7, or does not schedule a hearing on a motion for relief from the automatic stay for a date that is within 30 days after the date the motion was filed in a case under any chapter, the movant is deemed to have waived the automatic termination provisions of 11 U.S.C. § 362(e)(1).

## RULE 4004-1. DISCHARGE HEARINGS

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### (b) Request for Delay of Entry of Discharge Order by Debtor.

(1) *Initial Deferral.* Except for a motion to delay or postpone discharge under 11 U.S.C. § 727(a)(12), 1141(d)(5)(C), 1228(f), or 1328(h), the ~~The~~ court will ordinarily grant a single delay of the entry of a discharge order for not more than 30 days upon the filing of a motion by the debtor and submission of a proposed order as set forth in Local Rule 9013-1(g) prior to the expiration of the deadline prescribed by Fed. R. Bankr. P. 4004(a).

(2) *Other Deferrals.* For other, additional, or further delays requested by the debtor, the debtor must file a motion stating—

\* \* \* \* \*

## RULE 5080-1. FEES — GENERAL

The payment of applicable fees is required upon the filing of any petition, motion, or complaint, except a petition accompanied by an application to pay the filing fees in installments or for waiver of the filing fee in accordance with Fed. R. Bankr. P. 1006(b) and (c), respectively. A list of the required fees is available on the court's web site, [www.tneb.uscourts.gov](http://www.tneb.uscourts.gov). Once a fee has been paid, it may not be returned except by order of the court. Upon dismissal of a chapter 13 case, the chapter 13 trustee must pay any unpaid filing fee from funds on hand at the time of dismissal.

## RULE 6008-1. REDEMPTION

(a) **Contents of Motion.** A motion to redeem pursuant to 11 U.S.C. § 722 and to Fed. R. Bankr. P. 6008 must, in addition to other material averments, contain—

- (1) a description of the property sought to be redeemed;
- (2) a statement of the debtor's good faith estimate of the value of the collateral ~~and the results of any appraisal or other evidence supporting that valuation~~ and a statement of the basis of such estimate (such as appraisal, tax valuation, NADA value, sales of comparable property, purchase price and age, debtor's personal opinion, etc.); and
- (3) a statement that the property has been abandoned or is exempt.

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## RULE 9013-1. MOTION PRACTICE

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### (f) Hearing on Motions.

\* \* \* \* \*

(2) *Scheduling.* Absent permission from the court, the hearing date chosen by the movant must be

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(ii) at least 20 but no more than 40 days after service of the notice and motion except

- (A) hearings on objections to claims shall be at least 30 but not more than 50 days after service; **and**
- (B) hearings on motions for relief from the automatic stay in chapter 7 cases must be at least 15 days after the date of notice; **and**
- (C) hearings on motions to impose stays under 11 U.S.C. § 362(c)(4)(B) must be at least 5 days after the date of notice. If a party desires a hearing on notice that is less than 5 days, or that requires a special setting that is not one of the court's scheduled motion days, the party must seek permission from the court by contacting a courtroom deputy clerk. In addition to methods prescribed by the Bankruptcy Rules, notices of hearings on motions to impose stays must be sent by a method effecting immediate receipt, such as by e-mail or telephone facsimile if available. Proof of compliance with the notice requirements of this subdivision must be filed at or prior to the hearing on the motion. The court will determine at the hearing whether the notice and opportunity for hearing were appropriate in the particular circumstances.**

(3) *Waiver.* In the event the movant **does not schedule a hearing on a motion for relief from stay for a date that is within** ~~schedules a hearing on a motion for relief from stay more than~~ 30 days after the filing of the motion, movant is deemed to waive the 30-day termination provision of 11 U.S.C. § 362(e)(1).

(4) *Required Hearing Attendance.* Unless excused by the court, the movant and any objecting party are required to appear at all scheduled hearings. The failure of a movant or an objecting party to attend a duly noticed hearing will be deemed a withdrawal of the motion or of the objection to the motion, as the case may be. Similarly, the court will consider the failure of any other noticed party to attend the hearing as a lack of opposition to the granting of the relief requested in the motion.

**(g) Ex Parte Motions.**

(1) *Definition.* Unless otherwise directed by the court, no hearing is required for the motions set forth in this subdivision (g), which may be granted by the court on an ex parte basis.

(2) *Types of Motions.* The motions which fall within this category are—

- (i) applications to pay filing fee in installments as permitted by Fed. R. Bankr. P. 1006(c);
- (ii) motions for order extending or shortening time pursuant to Fed. R. Bankr. P. 9006(b)(1) and (c)(1) respectively;
- (iii) motions for a Rule 2004 examination;
- (iv) motions for an emergency hearing;
- (v) motions for *pro hac vice* appearance;
- (vi) motions by debtor for delay of entry of discharge, filed in accordance with Local Rule 4004-1(b);
- (vii) motions in which the movant certifies that all affected parties have consented to the requested relief;
- (viii) motions by debtor to convert pursuant to 11 U.S.C. §§ 706(a), 1112(a), 1208(a) or 1307(a);
- (ix) motions by trustee to reopen chapter 7 case to administer additional assets;
- (x) motions by debtor to dismiss chapter 13 case;
- (xi) motions for entry of or to vacate wage order;
- (xii) motions directing Internal Revenue Service to transmit refund to chapter 13 trustee and requests to vacate such orders;
- (xiii) motions by creditors to recover unclaimed funds; **and**
- (xiv) applications to employ professionals pursuant to Fed. R. Bankr. P. 2014 that do not seek approval of a postpetition retainer or a particular fee arrangement and that do not reveal any actual or potential conflicts of interest or any other facts that could preclude retention; provided the application has been served on the United States trustee who will have seven days from the date of service in which to object.;
- (xv) motions to waive the filing fee under 28 U.S.C. § 1930(f) and FRBP 1006(c); and
- (xvi) motions pursuant to 11 U.S.C. § 109(h)(3)(B) for an extension of an exemption granted pursuant to 11 U.S.C. § 109(h)(3)(A).

(3) *Proposed Order.* Each ex parte motion, except applications to pay filing fee in installments, must be accompanied by a proposed order, approved for entry by the movant as required by subdivision (c) of this rule.

**(h) “Passive Notice” (Notice and Opportunity for a Hearing) Motions.**

(1) *Type of Motions.* As an alternative to setting and noticing a motion for hearing as required in subdivision (f) of this rule, a movant may follow the passive notice procedure set forth herein whereby no hearing is set or held unless a party in interest objects to the relief requested in the motion. This passive notice procedure may be used only for the following matters—

- (i) motions in chapter 7 cases for adequate protection or for relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) or (2); provided, however, if the passive notice procedure is utilized, the movant is deemed to have waived the 30-day automatic termination provision of 11 U.S.C. § 362(e);

\* \* \* \* \*

- (xiii) applications or requests for payment of administrative claims or expenses pursuant to 11 U.S.C. § 503, including fees for professionals; and
- (xiv) applications to employ professionals that seek the approval of a postpetition retainer or a particular fee arrangement and evidence service on all creditors and parties in interest except that service of the application in a chapter 11 case may be limited to the parties set forth in Local Rule 2002-1(b); and
- (xv) motions for relief from the codebtor stay pursuant to 11 U.S.C. § 1301(d).

(3) *Objection Deadline.* The number of days in which parties may object that is placed in the passive notice legend must be 20 days except

- (i) motions for relief from the automatic stay or to compel abandonment (or both) in chapter 7 cases for which the objection time must be 15 days; and
- (ii) objections to proofs of claim pursuant to Fed. R. Bankr. P. 3007 for which the objection time must be 30 days.

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## **RULE 9019-1. SETTLEMENTS ~~AND AGREED ORDERS~~**

\* \* \* \* \*

**LOCAL FORM 1007.1**

**[CAPTION]**

**STATEMENT REGARDING PAYMENT ADVICES OR OTHER EVIDENCE OF PAYMENT**

**CERTIFICATION OF DEBTOR**

**CERTIFICATION OF JOINT DEBTOR**

**I hereby certify under penalty of perjury that**

**I hereby certify under penalty of perjury that**

**9** **attached hereto are copies of all payment advices or other evidence of payment [such as paycheck stubs, direct deposit advices, statements of payment, etc.] that I have received from an employer within 60 days before the date of the filing of the petition, with all but the last four digits of the debtor's social security number redacted.\***

**9** **attached hereto are copies of all payment advices or other evidence of payment [such as paycheck stubs, direct deposit advices, statements of payment, etc.] that I have received from an employer within 60 days before the date of the filing of the petition, with all but the last four digits of the debtor's social security number redacted.\***

**or**

**or**

**9** **I did not receive any such documents from an employer within 60 days before the date of the filing of the petition.**

**9** **I did not receive any such documents from an employer within 60 days before the date of the filing of the petition.**

**[SIGNATURE OF DEBTOR]**

**[SIGNATURE OF JOINT DEBTOR]**

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**\* Other evidence of payment may consist of the debtor's most recent paycheck stub showing year-to-date earnings if the debtor has worked the same job the last 60 days before the date of the filing of the petition.**

LOCAL FORM 3015.1

[CAPTION]

CHAPTER 13 PLAN

Original  Amended

Dated: \_\_\_\_\_

**1. Payments and Term.**

The debtor will pay the chapter 13 trustee \$\_\_\_\_\_ per \_\_\_\_\_ for \_\_\_\_\_ months by [wage order or direct pay] and the following additional monies:\_\_\_\_\_.

**2. Priority Claims (including administrative expenses):**

(a) All administrative expenses under 11 U.S.C. §§ 503(b) & 1326 will be paid in full, including fees to the debtor's attorney in the amount of \$\_\_\_\_\_, less \$\_\_\_\_\_ previously paid by the debtor.

(b) Except as provided in paragraph 6 below, claims entitled to priority under 11 U.S.C. § 507 will be paid in full in deferred cash payments, with tax claims paid as priority, secured, or unsecured in accordance the filed claim:

**3. Secured Claims:**

(a) *Cramdowns.* The holders of the following allowed secured claims retain the liens securing such claims and will be paid by the trustee the value of the security in the manner specified below. The portion of any allowed claim that exceeds the value indicated will be treated as an unsecured claim under paragraph 4(a) below.

<u>Creditor</u>	<u>Collateral</u>	<u>Value</u>	<u>Monthly Interest Payment</u>	<u>Rate</u>
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(b) *Surrender.* The debtor will surrender the following collateral and the creditor will have an allowed deficiency claim which will be paid as unsecured under paragraph 4(a) below:

<u>Creditor</u>	<u>Collateral to Be Surrendered</u>
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(c) *Long-Term Mortgages.* The holders of the following mortgage claims will retain their liens and will be paid monthly maintenance payments which will extend beyond the life of the plan. Any arrearage amount set forth below is an estimate; arrearage claims will be paid in full in the amount in the filed claim, absent an objection. Increases in the monthly maintenance payments during the life of the plan will be paid by the indicated payer.

<u>Creditor</u>	<u>Estimated Arrearage</u>	<u>Interest Rate</u>	<u>Arrearage Monthly Payment</u>	<u>Maintenance Payment</u>	<u>Payment By:</u>
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(Trustee or Debtor)

